

## COMMITTEE ON BILLS ON SECOND READING

**April 9, 2002**

**5:45 PM**

Chairman Wihby called the meeting to order.

The Clerk called the roll.

Present: Aldermen Wihby, Sysyn, DeVries, Smith, Forest

Chairman Wihby addressed Item 3 of the agenda:

### Proposed Responsible Employer Ordinance

Chairman Wihby stated this is a Committee meeting and it is not officially a public hearing. We are going to do our work up here first. We are going to let the department heads...when it was sent to this Committee, it was asked that the City Solicitor make a report and that the department heads make a report. We are going to take the City Solicitor's report and the department head's reports and see about some amendments up here if anybody has any to propose and if we have any time we will let you speak. We have a list here of names and we will go down the list. We have an hour and a half. The second meeting starts at 7:30 PM. We have limited time and I don't know what will happen and if there will be another meeting because of the time or if it will go up to the full Board level or if it will pass today or get killed today. I am not sure. We haven't got there yet but we will try to get some of you at least to speak. If you can keep your comments as brief as possible and not repeat what you have heard because we would have heard it already. In the meantime, if everybody could just get a seat and get out of the hallway and let us try to get our business done first that would be great. We have a lot of communications and if anybody has anything to do or say about the ordinance, bring it out now.

Alderman DeVries stated I would like to address first within the contract if I might the very first paragraph regarding health insurance and suggest a proposed amendment that that should read "all contractors shall furnish, at their expense, comprehensive health and hospitalization benefits for their employees." It should end there. So we are dropping the "and their families" and the "comparable to the City of Manchester."

Alderman Sysyn asked so you are saying that the employer would pay for all of the insurance.

Alderman DeVries answered for the employee.

Alderman Sysyn asked the employees don't pay for any of it.

Alderman DeVries replied that is what I am proposing. Basically, we are dropping the "and their families" and we are also dropping the suggestion that it should be comparable to the City of Manchester's employee health benefit plan. By dropping the comparison to our health plan, that means that any insurance plan that has been authorized for participation within the State of New Hampshire would be applicable. There are Federal outlines for what would comprise a health insurance plan, at least to my understanding.

Chairman Wihby asked what was the comment that Alderman Sysyn tried to make.

Alderman Sysyn stated I said it would be at the expense of the employer. The total cost of the insurance is at the expense of the employer and the employee doesn't have to pay anything.

Chairman Wihby asked and that was the intent.

Alderman DeVries answered that was my intention.

Alderman Garrity asked, Alderman DeVries, is it your intent that the employer pick up the full cost of the employee and not their family.

Alderman DeVries answered that is what I am offering at this time. It is one person's opinion and open for comment.

Alderman Garrity stated I would probably like to see something a little broader than that, maybe 80%/20% or something like that. I think for an employer to pick up 100% of an employee's health costs is quite expensive. Maybe we could make it a little broader like 80%/20% or something of that nature.

Alderman DeVries replied I guess I was basing my thoughts on the response that I had receive indicating that the, I believe it was somewhere around 90% of the contractors already doing business within the State were offering health insurance plans to their employees. Maybe there needs to be further definition on that, but it was my understanding that we were already looking at the majority.

Alderman Garrity asked are the employers picking up 100% of the cost though.

Alderman DeVries answered are you asking me for clarification.

Alderman Garrity replied yes.

Alderman DeVries stated I don't know that I am in the best position to clarify that. We could probably seek clarification elsewhere on that.

Alderman Garrity stated I would urge that.

Chairman Wihby asked what is your point, Alderman Garrity.

Alderman Garrity answered my point is that Alderman DeVries has stated that over 90% of the contractors supply insurance to their employees but I tend to believe that that is probably not 100% paid by the employers. Are you talking just the employee and their family or just the employee?

Alderman DeVries replied just the employee.

Alderman Garrity stated I would tend to think that it is probably not over 90%. It is quite expensive to pay 100% of it and I would think that maybe we can get some numbers like 80%/20% or 85%/15% or 90%/10%. I would strongly urge, Mr. Chairman, that we try to get some numbers on how many contractors pay 100% of the employees' health benefits.

Chairman Wihby replied we could take a vote because I think they are all here today. Does anybody have any further amendments or changes?

Alderman Smith stated I would like to address Item 5. I don't think the City should be in the business of administering our personnel to manage this payment on payroll records and I would just like to bring that up. That is one thing that bothers me.

Chairman Wihby asked would you like to see Item 5 taken out completely. Is that what you are saying?

Alderman Smith answered yes.

Alderman DeVries stated I think there are a couple of things that need to be included in this plan that have not been stated within the original. One, in reviewing the ordinances as drafted in other cities, it became apparent to me that the majority of the plans had a set point indicating what source of projects the ordinance would be applicable to, as well as indicating a dollar amount to which the set point might be. There was some disparity in the plans that were offered up

from other cities, but to kick around on this Committee what I am thinking is to limit this to Public Works projects...

Chairman Wihby interjected are we talking a specific place that you would put this.

Alderman DeVries stated I think it would have to be a new paragraph. This needs to go to the Solicitor for the proper wording, but something saying that the provisions of this ordinance would apply to Public Works projects for which the general bid was \$250,000 or greater. We probably need to further consider within this Committee how to handle sub-contractors and I did see several references from other cities in which they were attaching a dollar amount to that. Again, they were all over, depending on the size of the city, and that is something that we need to do some further research on but something in the vicinity of \$25,000 for a sub-contractor under the general contractor. The key entities there, though, being that this is applying to Public Works projects and the range of dollar amounts for those Public Works projects from what I had read were running from \$100,000 to \$400,000. From what I understand, it depends on the size of the City and I think we need to do a little more research within our own staff, our Public Works Department, to see where generally our projects fall to make a more definitive comment on the dollar amount we should set but that would give us some place to start.

Chairman Wihby asked could you explain that. \$25,000 would be limited under the general contractor...

Alderman DeVries interjected if a general contractor subs out a project, there should be some sort of a lesser dollar amount attached to that and I think we can ask for some advice from staff to determine if other city's \$25,000 is an appropriate dollar amount. That may be too low. That may be too high.

Chairman Wihby asked so you are saying a general contractor can't sub out for any projects over \$25,000.

Alderman DeVries answered no that is not what I am trying to say.

Chairman Wihby asked it wouldn't qualify.

Alderman DeVries answered I am saying that this ordinance would only apply to general contractors when it was a Public Works project in excess of \$250,000 and the subs under that same project were coming in in excess of \$25,000.

Alderman Garrity stated on Item 2, “all contractors with four or more employees shall maintain and participate in a bona fide apprentice-training program”, I think what it should read in my opinion is “all contractors with four or more employees on a specific job site should have a bona fide apprentice-training program.” I think the perception out there is that all contractors or all businesses that have four or more employees need to have an apprentice training program and I think maybe if we reworded that a little bit, if you have four or more employees on a job site that there needs to be an apprentice training program. I think there should be some amendments to that also.

Alderman DeVries stated I have a comment on another item. I wish to re-address Item 5 that Alderman Smith had weighed in on. I would ask the Committee if we...I am not saying that this is worded perfectly to my satisfaction but if we don't have some method of identifying that there is compliance to the State and Federal Labor...for job classifications, how might we do that if there is not some sort of payroll certification? I am offering this one to all of the members. If we are looking to delete Item 5, which I think is what I heard...how would you...I am not 100% familiar with the compliance that we currently have at the Public Works Department for our contracts, but I do believe I understand that there is some sort of a method already in place where they check for contract compliance and they have some methodology.

Alderman Smith replied I think Frank Thomas could answer that.

Alderman DeVries stated we could take that up later.

Alderman Smith stated the problem is that we have been presented all of these items and I thought there were going to be some changes or amendments and they have essentially the same thing we had two weeks ago. We don't have all of the pieces of the puzzle right now, David.

Chairman Wihby stated I think everybody anticipated the amendment coming in and we were going to be looking at the amendment but we are sort of getting there slowly. Frank will speak on that issue when he comes up. Any other changes? All right. First, the City Solicitor, Tom Clark, you said something about Item 4 and we couldn't do it anyway?

Solicitor Clark replied we have been asked to do a quick review of the proposed ordinance. As you are aware, New Hampshire is not a home rule state. The cities do not have any powers in and of themselves. They only have those powers that are delegated from the State. In cases where there is a comprehensive state regulatory scheme, the cities are pre-empted from issuing their own regulations. It is the opinion of my office, under paragraph 4, there is a comprehensive state

regulatory scheme in existence. There are a number of statutes that have been passed by the Legislature regulating who is an independent contractor and who is an employee. Therefore, we are pre-empted from regulating that field and it belongs to the jurisdiction of the Department of Labor and the City of Manchester is not obligated to begin enforcing those statutes on their own.

Chairman Wihby asked so on Item 4 you are telling us that we should not have...

Solicitor Clark answered in my opinion you should not have that in there.

Chairman Wihby asked is that the only one legally that you have concerns with.

Solicitor Clark answered that is the only one that I would say at this point we are pre-empted. Now if they are going to tie Item 5 into Item 4 strictly to enforce whether or not you are an employee or independent contractor then that is not proper. We shouldn't be doing that because it is not in our jurisdiction to enforce that statute, it is the Department of Labor. There is nothing wrong with requiring payroll records but it is a lot of work. Again, looking at the ordinance as a whole, these paragraphs 1-7 prior to the amendments and I guess even after some of these proposed amendments, are a pre-condition to issuing any bid. We are not going to allow a contractor to bid on a contract in the City of Manchester until he has met all of these and certified that he has met all of these. To allow a contractor to bid based on that, we are going to have to do an investigation to determine whether or not they have what is proposed to be a comprehensive health insurance program and who is going to define what a comprehensive health insurance program is I am not sure. It is not defined in this ordinance. Who is going to determine whether or not there are going to be four or more employees on a job site on any particular time, when there are three today and five tomorrow, when are we going to determine when there is supposed to be an apprenticeship program, especially since he has to certify before we can allow him to bid. We just see this as being a very burdensome ordinance for the City of Manchester.

Chairman Wihby stated we also have department heads here who were asked to look into this. Could we have all of them or some of them come up? Can we limit the discussion to these amendments and whether they should be adopted or dropped off first?

Mr. Thomas asked so you don't want us to talk about the correspondence that we submitted or our recommendations.

Chairman Wihby answered I do but also at the same time you have to talk about the amendments proposed and if that solves the problem that you might be talking about. If you are going to say with the amendment we are fine with Item 1, then

let's not talk about Item 1. Let's say we are happy with it and move on to Item 2. If you are going to say it is a concern, then bring that up.

Mr. Thomas stated I don't think that the proposed amendments are going to change our position significantly on that. If you want, what we will do is briefly go through the letter that we submitted. I will start it off. The department heads that are noted on this correspondence are in agreement that this ordinance does really concern us. We believe that the underlying goals of the ordinance concerning the promoting of employee health benefits, providing worker's compensation insurance and employee training is noble, however, we strongly believe that this initiative should be started at the State level and not at the city and town level. There was some discussion already regarding the ability for the City of Manchester to enact an ordinance that covers all of these requirements. As Tom noted, in particular the portion that pertains to employee and employee relations may be pre-exempt with the State legislation that is in place. The bottom line is that we are uncomfortable that one part of the proposed ordinance can't be enacted, however, we strongly feel that this should be a State issue. It should be an issue that is promoted at the State level and brought down to the various municipalities so that everyone is on the same playing field. If there is a problem with the existing legislation or enforcement procedures, then I think the focus should be on correcting it at the State level and not starting at the City level and moving up. However, we did have some comments as noted in our correspondence in bullets. The first one I will take and then I will turn it over to Kevin for a minute. I think Alderman DeVries addressed it. I think the ordinance as it is spelled out right now is very general and I think Alderman DeVries realized that also. Even defining it as Public Works projects, what does that mean? A Public Works project does that mean buying a new computer system for the City? Does it mean buying asphalt? I think there has to be a definition. I think the other concerns that we had were as the ordinance is presently written the range of work could go from \$1 up to \$100 million. I think, again, the Alderman identified that there is a need, at least, as a minimum to address that. What kind of contracts? Again, Public Works projects could mean construction, could mean engineering, could mean architectural services. What is the focus of this ordinance? We feel definitely that that area has to be tightened up a little bit more.

Mr. Dillon stated let me just expound a little bit on what Frank started with in terms of why we believe this is a concern that needs to start at the State level. There is a lot of concern that if this ordinance is put on line in isolation here at the Manchester Airport it will have the impact of driving, particularly a lot of the small businesses, to not seek work here in Manchester if they need to start complying with this and certainly they would have the ability to go work in Portsmouth or Dover or somewhere else in the State. If this is going to be put on line, it really needs to be put on line in a uniform fashion so the impact of

whatever comes from this ordinance is shared on a statewide basis, not that the Manchester Airport suffers that impact alone. I think from my perspective it comes down to two major issues that we are talking about here. Certainly, cost. There is no doubt in my mind that this ordinance will increase the cost of construction contracts at the Airport. The fact that we start levying additional requirements on any contractor will necessarily add to cost. In terms of enforcement, that is probably even a larger issue that I have with this. The amounts of work that would be entailed for us to track performance required under this ordinance would be a huge task for the Airport to undertake and I am certainly sure that any other City department would have that problem as well. A lot of the things that we would be asked to enforce under this ordinance are not City requirements, they are State regulations. The Airport should not be chasing a contractor to make sure that he is paying worker's compensation insurance. That is a State function. By putting this on line in the City of Manchester alone, in essence the City begins to subsidize State enforcement measures and quite frankly I think when you start to look at what is involved, and that is just one aspect of this, once you start verifying payroll information that is required under this and verifying information associated with health insurance, it is a huge amount of time that you are asking City staff to get involved with. I guess intrinsically I will just finish my comments with I am not too sure that the City of Manchester or city government should be involved in the business of trying to regulate private business. We get bids and they are competitive bids that we are looking for and I really cannot agree as a department head that it is our role to start regulating how a private employer is going to run his business.

Mr. Thomas stated again just to follow-up on that I guess that is the overall gist of the department heads comments. We can go into detail on the correspondence, but I think Kevin summed it up very well. I think one thing to keep in mind is that the City of Manchester, over the next few years, is looking at potentially doing over \$100 million worth of work. As you know, the City of Manchester right now is faced with budgetary problems. Some people might call it a budgetary crisis. I don't think there has been enough thought and time put into the impacts of this proposed ordinance. If this ordinance means that the cost of these projects goes up 1%, you are looking at a minimum of \$1 million to implement this ordinance. If the impact is 5%, \$5 million. Really, can the City afford that cost right now? Again, going back to the original premise of our point, this should be at the State level coming down so that all municipalities are on the same playing field. If you would like, we will try to answer your questions.

Chairman Wihby asked are there any other department heads that would like to speak.



Alderman DeVries stated when we first had our presentation and we were talking about the misclassification of independent contractors, I believe you admitted yourself sitting on the Department of Labor that it was quite the problem in that very frequently it cost both the municipalities and the State quite a bit of lost revenue by virtue of taxes. I am wondering if we don't address it here how you feel...it is already a State ordinance that individuals for tax purposes or worker's compensation be classified if they are employees as employees. It is obviously broken so how might we address that? That is not something that would increase the cost of our contracts. In fact what it would do is cut into the profit margin for a general contractor, but it wouldn't increase the cost of the City of Manchester's contracts because we are already paying the high premium. It is just if they misclassify the employee, they reap the benefits of it.

Mr. Dillon replied I guess I am not too sure how widespread the problem is. In terms of the increased cost to the City of that provision, it becomes the enforcement aspect of what we would be asked to do. Again, I think it is very, very clear that that is a State Labor Department responsibility. It is State labor law and it should be the State that enforces that. Again, I point out that if the City starts to undertake...particularly if it is being done in isolation where the City of Manchester is the only municipality, in essence we would be subsidizing State enforcement costs. I think if this is truly a big issue, which I am not too sure it is, but if it is I would certainly urge that the Board seek State assistance in terms of moving that forward and getting that enforced.

Chairman Wihby stated the Labor Department can always use more hands.

Mr. Thomas replied I think that is what we are saying. Let's try to support any improvements at the State level. Again, if you pick up on some of these misclassified employees at the local level, there are no savings on the contractor to bid. That savings, from what I understand, goes into the pocket of the general contractor. So there isn't any savings at the local level by addressing this. There is the cost of enforcement. Instead of the cost of enforcement being at the local level, put it where it belongs at the State level.

Alderman DeVries responded I believe it was my understanding that this would be a self-policing ordinance meaning that the City of Manchester would not be responsible for policing and reporting but where it is tied to the general contractor for the responsibility to sign-off saying that all of his employees and his independent contractors employees are properly classified. If there is any misrepresentation that the general public or some other individual might bring forward, you would immediately jump to the State level for the enforcement but at least it ties our general contractors to a level of compliance to the City just by virtue of being in the ordinance.

Mr. Dillon stated I guess my concern with that, and I am not too sure if some of the amendments that were proposed today would change it, but I think to put it in a real world situation if an allegation comes forward that a particular contractor is not under compliance where someone is alleging that they are misclassifying employees, I think that with the ordinance it would then be incumbent on the City of Manchester to take action because we would, in fact, then have a contractor operating not in compliance with the ordinance. Just think of the real world impact of that. What are we to do? To stop a construction job until some type of legal challenge is heard to determine whether or not the allegations are correct? I can see all sorts of problems in terms of how you would go forward.

Alderman DeVries responded I don't believe that was suggested but let me ask you, Mr. Dillon, how would you suggest that the City of Manchester handle this.

Mr. Dillon asked in terms of what.

Alderman DeVries answered you just made a statement that you thought that the City of Manchester could be liable if there was misrepresentation of the employees.

Mr. Dillon replied no I said the City of Manchester could be liable if this ordinance went forward and we allowed a contractor to work not complying with the ordinance. That is why I think it is best that this ordinance not go forward and allow the State to enforce their State regulations.

Mr. Thomas stated Item D in this proposed ordinance basically says that the City has four methods of dealing with a contractor that is non-complying and that is from basically stopping the work to holding back payments. So, there is quite a strong enforcement requirement placed on the City.

Alderman Smith asked, Frank, going back to Item 1 and the health and hospitalization benefits, we have temporary employees that have no benefits. Am I correct, Howard?

Mr. Thomas replied that is a good question. I am not 100% sure. I don't have an answer for you. I know that a permanent employee within a month's time is on City insurance.

Mr. Dillon stated I can tell you we hire seasonal employees out at the Airport that do not have benefits.

Alderman Smith replied I would just suggest that Mr. Clark look into this for future reference.

Alderman DeVries stated if it is tied to specific projects at a certain set amount, I don't believe it would affect either of those.

Chairman Wihby stated we have some time left so we are going to let some of the people who signed up speak. We have sign-up sheets in favor of and opposed to so we will take them one at a time.

Mark Holden, 14 Dixon Avenue, Concord stated:  
I have some handouts.

Chairman Wihby stated if you notice on the agenda we did get communications from some people who haven't signed up but they did submit communications. They are David Udelsman, Brian Young, John Brery, Denron Plumbing, Hampshire Fire Protection, North Branch Construction, and some of them will be speaking but just so we know we got some communication from them.

Mr. Holden stated I am Executive Director of Associated Builders and Contractors. We are located at 14 Dixon Avenue in Concord, NH. We represent commercial/industrial contractors throughout the State and actually in the last week or so I have been meeting with a coalition of five organizations that includes Associated Builders and Contractors, Associated General Contractors, the New Hampshire Chapter of the American Institute of Architects, the Electrical Contractors Business Association and the New Hampshire Plumbing and Mechanical Contractor's Association. Together we represent over 500 companies employing over 10,000 employees and we estimate that the companies we represent have been involved with over 95% of projects performed for the City of Manchester over the past several years. We opposed the AFL-CIO proposed responsible employer ordinance. We do support responsible employers and initiatives including access to healthcare, quality training, compliance with worker's compensation laws and enforcement of the misclassification of employees. However, we believe the proposed ordinances are necessary, inflationary, will promote decreased productivity, and interfere with valuable established employee/employer relationships. The AFL-CIP proposed ordinance would eliminate the City of Manchester's ability to receive cost effective construction services and will prevent contractors from bidding on work for the City of Manchester. If any employers support this ordinance, who are they and where are they from? What I handed out was a document that you all got previously I think and it touches upon Sections A 1-7, which are the issues that were brought up in the ordinance and are proposed in the ordinance. I don't want to repeat any of the previous testimony or discussion items but real briefly the first

issue, which refers to health insurance. I also enclosed for your information part of a benefit survey. If you want to turn to that, it may answer some of your questions about statistics that exist in the industry. The sheet that is entitled "Benefit Information" and we don't need to go over all of this information but this survey was done during the fourth quarter of 2001. There was a real good response. It was a meaningful survey. The results show that 98% of contractors provide health insurance for their employees. The statistic that you were asking questions about, what percent of the employees health insurance do they pay, for employees the average is around 68.7%. This goes on further and talks about dental insurance. It talks about spousal coverage and the percentage paid. It also interestingly comes up with and asks the question for the average cost of single coverage and family coverage, the average cost of single coverage was \$251 and the average cost of family coverage was \$711.

Chairman Wihby asked where did this information come from.

Mr. Holden answered this was a survey done by Associated Builders during the first quarter of 2001.

Chairman Wihby asked for New Hampshire.

Mr. Holden answered that is correct. I also attached a sheet titled "Yearly Increases in Health Insurance." If you turn to that, this actually was in NH Business Review, their latest issue. It is very timely. The bottom line is that it shows that in 1998 dollars in the past since 1998 through 2001 the cost of health insurance has increased 325%. So with those statistics as background, I guess the issue is most contractors, 98%, are providing access to healthcare. On average they are paying around 70%. How are they doing it? That is the question. The important point that I want to make is that the employers need the ability to be creative and flexible in how they bring healthcare to their employees. They are doing it through anecdotal and survey feedback. We found out that they are doing it through shared costs, out-of-pocket limits, deductibles and flexible benefit plans. If the City or if the State for that matter enacts any kind of restrictive ordinance on how an employer is going to provide and deliver health insurance to employees, it is going to cause some issues. Employers need flexibility. They need the ability to be creative. An employer with a base of employees who have some health issues, for example, their health plan is going to look a lot different than an employer who has some relatively young employees who do not utilize their health insurance much and feel that they are invincible. We have seen that. We have talked to employers about that. Employers need the ability to be able to create a program and a plan that is appropriate for their company and they can't do that with restricted mandates. Number two, the reference to apprenticeship programs, apprenticeship programs are valuable. They are good programs. They

are not the only method of training. A lot of employers are using different methods. There are in-house programs. There are a lot of mentoring type of programs going on. A couple of real brief points with apprenticeship training is the structure of apprenticeship programs involve registration with State and Federal agencies. There are a lot of compliance and regulatory issues. The State Apprenticeship Council and the Bureau of Apprenticeship and Training are both involved in those programs and their ability to respond to this ordinance and the tremendous increase in activity is certainly an issue that should be looked into. It is not...we do not believe that it is advisable for an ordinance to be enacted that mandates a preferred method of training for one company that another company may not prefer. They may have another method or another way of training employees and there are other methods out there. That is an issue of the apprenticeship and you may hear some further comments on that from some other people in the house. Very quickly the third issue is we have no problems with complying with worker's compensation. We support that and we agree with it 100%. The independent contractor issue...you have heard comments on that. We support the efforts of the IRS, the Insurance Department, and the Federal and State Labor Departments. We believe in those efforts and we do not support the misclassification of employees. Number five, the issue of the certified payroll. We do not believe the City of Manchester should be in the business of managing in the workforce the compensation practices of contractors and we don't think that the disclosure information, truly the intent of that is to help with the enforcement. We think it would provide access to confidential information that is not advisable. The residency requirement...one suggestion there is to look at the Civic Center to see how that worked. They had a residency clause. There are issues with that and prohibiting a contractor's ability to man a project by requiring residents of the City of Manchester. In conclusion, the need for the AFL-CIO responsible employer ordinance is not reality based. The ordinance can only be understood, we believe, as a market recovery campaign for the building trade unions and although the history of the labor movement, over the past several decades, would be interesting to discuss, this is not the appropriate forum. Today productivity and the ability to deliver cost-effective construction services is important to the City and it is how all businesses stay competitive. No business should expect to become competitive through the passage of work rules and conditions that have no impact on quality, are less productive and more expensive. Thank you very much and I apologize if I went over time.

Chairman Wihby stated we are going to take all of the testimony and all of the documents that were received under advisement when we end this so everything will be recorded that the Committee does have.

Jacques St. Arnault, 327 E. High Street, Manchester stated:

I just want to thank you for all your hard work to begin with. I think this ordinance is good for the City. It will save us money in the long run and that is what we have to look at – in the long run. If we don't increase our contracts, we are the ones paying it, not the State. We need to make sure our money is going to the contractors and not the contractor's pocket. They need to make their money but their employees need to make their money too and they need to have benefits. Thank you.

John Gimás, 116 Portsmouth Avenue, Manchester stated:

I will make it very brief. I have lived here for approximately 44 years. On behalf of the independent electrical contractors in the City of Manchester and the State of NH, I urge you to reject the responsible employer ordinance. This is a law about limitations and will only insure that everybody's costs rise by introducing government censorship into work agreements between employers and their employees and by limiting the number of contractors who can bid on a project. I would like to address some of the issues here at hand very quickly. Dictating the levels of health coverage and insurance of employees. As you know from Mark Holden, a recent survey of ABS showed that 98% of their members provide health insurance. In most cases it is a must to attract qualified professionals. However, the level of medical coverage, the level of pay and any other type of benefit is an agreement between employers and employees. When any government starts setting employment terms for independent companies there is clearly a white flag raised not only by the business owners but to all citizens of Manchester and the state. Two, forcing anyone who is not a local resident off the job. Many facets of the job require particular skills, both narrow and broad, and any company should have the ability to choose professionals based on their abilities, not on their home address. Three, banning skilled and qualified independent contractors from working on City projects. This is yet another way to limit the number of qualified professionals available to work on City projects. Four, dictating specific apprentice programs. This limits both the method of training available to workers and the different types of skills they will learn. Successful companies train to retain their employees. It is just smart business. But every company is different and they must have the options to employ a variety of methods for this, including on-the-job training as well as vocational programs that have already been proven very successful in training our future workforce. By the way, that is how I came up, through the apprentice programs with the State and at the educational level. While these arguments should be enough, the most unsettling issue is the extreme government oversight that this ordinance would introduce. While I commend your concerns for workers, trust me we care for our workers also. It is unrealistic for any government, local or otherwise, to monitor and set employment terms for businesses they neither own nor run. In addition, this ordinance would require contractors to submit certified payroll records every other week to the City Clerk and then those records would become available for anybody who wants to see

them. For businesses like ours, this is competitive information that is very confidential. This would also create a lot of needless, expensive administrative work that the taxpayer will ultimately pay for. That is why the State Legislature last year voted it down 16-1. I urge you as a Manchester taxpayer and as an independent electrical contractor to vote against limiting choices by rejecting the responsible employer ordinance. This will insure that taxpayers receive the highest quality construction with competitive costs. Thank you for your time.

Tony Pecce, 121 Fox Hollow Way, Manchester stated:

Frankly I am a little ashamed here. Just a few years ago Manchester was voted what, the number one place to live in America. Is this how we treat our working people? You know all of these people and anybody that is against this, I am ashamed for them. This isn't about setting particulars. This isn't about us trying to dictate how they run their business. This is about making sure that they are responsible and people have a way of life that they can live and have a family and do the things that they need to do. You know people making what they make can't afford to go get insurance. It is not provided, it is offered and they pick-up a lot of the costs themselves. A lot of them can't afford it. I get a little angry that there is so much opposition to something like this that is a good thing for the community. I mean when are we going to start acting like the number one place in America? I just think that last week I mentioned to the full Board and this week I will remind you that this is a very important decision that many, many people are going to be effected in a good way. The people who need it the most. These people do not need it. Cutting into their margin is not going to hurt them. It is not going to put them out of business. They can come up with a million reasons why. Where are their employees? Are they here saying no this shouldn't happen? I don't think so. I am sure many of them would appreciate if we did this for them. Thank you.

Larry Thibodeau, 4 Fair Oaks, Amherst, NH stated:

I am the owner of Hampshire Fire Protection. We are not based in Manchester but we are based in Londonderry. We have a lot of employees who live in the City of Manchester and are very, very well paid. It is amazing to hear some of the comments that I hear because we talk about health insurance and it is ironic that I am in the middle of renewal right now and we are seeing a 17% increase on an \$800/month premium. I pay 75% of all the insurance for the employees and their families. To say that we are taking money out of our pockets and we are trying to put money back by objecting to this ordinance is totally false. We have more than four employees. We have 90 employees. We have our own training program that we instituted because we couldn't get one through the State. It is governed by the State and the fellow who governs it is here. He will attest that we have a tiptop ship. We have worker's compensation insurance. Most contractors wouldn't allow you to work without worker's compensation insurance. You have to

provide certificates when you start a job. It is irresponsible for some of the contractors and I know that we do a lot of work for the City of Manchester, that they oversee some of these things as we speak. It is part of the State's responsibility to oversee the comp issues. We all know that comp is just atrocious. In my trade the comp rate in the State of NH is just four times what it is in Massachusetts, but we provide all of that. We classify our workers the way they are supposed to be classified. We don't use independent contractors and I believe that that is not a major problem in this area. As far as what we pay our employees, that is our business and their business and they all get paid very well. If they didn't they certainly wouldn't stick around because there are enough people to jump for 25 cents here and 50 cents there. To have the City oversee what we are paying employees is not the City's business. It is just burdensome and a lot of paperwork. Hiring plans. We were the fire protection contractor at the new Verizon center and we had our employees who lived in the City of Manchester work on that project. Obviously we were very lucky because we have a lot of people who live in the City. If we were a contractor who didn't have City employees, then it becomes a problem but sometimes we can't find the qualified people in the City. We were very fortunate. I guess I think this ordinance is truly counterproductive. There are a lot of good contractors. A lot of projects get done in this City on time and under budget and I think that this thing should be scrapped.

Ron St. Cyr, 202 Gold Street, Manchester stated:

I have been in the construction industry for 35 years. I have been a resident of Manchester for 59 years. I am in favor of this responsible contractor ordinance. I have worked for many contractors in the past, some good and some not so good. I have six children and if it wasn't for working for a responsible contractor that had health insurance available, I wouldn't be in the position I am in today with having a good home, vehicles and other things like that. Contractors make available health insurance and if a worker is getting paid \$12/hour, \$13/hour, \$14/hour, the contractor makes health insurance available and that comes out of his paycheck. It could be \$2/hour or \$3/hour. Any contractor who pays full health insurance or 80% of the health insurance, I salute them. If they do this then they shouldn't be standing here objecting to the ordinance proposal that is in front of us right now because they are doing the right thing right now.

Rich Lambert, 23 Summer Snow Lane, Bedford stated:

I work for one of the largest contractors in the State. We have been in business in this area for over 60 years. I would like to think that we have a great program as far as health goes and retaining employees. Our average employee's time with us is at least eight years. We have 135 employees, which means that we have 135 families. They are all proactive. They are all involved in community services. We like to feel that their family is the most important thing and certainly this



ordinance coming in to effect here in Manchester if it happens, there is a good chance we will not work here because we will not work under these rules. They are outdated. They are exclusionary and to be honest with you, you have an awful lot of good contractors out here who have supported the City and outside towns and you are also going to exclude them if this ordinance comes through. You should seriously think about it. Certainly it would change the fabric of the community if you lose a lot of these contractors and I assure you, you will.

Christopher Sauris, 225 Friend Street, Boston, MA stated:

I am an attorney for the Carpenter's Local up here in New Hampshire. I would like to address very briefly one specific issue that has been raised by a number of speakers this evening and that is a number of comments that have characterized this ordinance as an attempt to regulate private business. This attempts to address some of the comments made by the Solicitor as well that this ordinance somehow interferes with some level of State regulation and is pre-empted and not consistent with the home rule issue. This ordinance does not purport to regulate private business conducted in the City of Manchester. This is a very, very narrow kind of ordinance. It is not saying that those contractors who do business in the City of Manchester have to conduct their business in a certain way. It is simply saying that the City of Manchester, as a property owner, not a regulator of civic life, but simply as a property owner is making a decision about certain minimum decisions that it wants to have adhered to by contractors who work on its property, build its buildings, build its roads. That is it. The ordinance does not purport to interfere in the private business affairs of businesses in the City. It is simply saying that we want contractors who work on our projects, the City of Manchester, to comply with the law, to adhere to certain minimum standards with respect to health insurance and training and to comply with various provisions of the law. The ordinance doesn't function as an additional mechanism to enforce State law. It is simply saying that if the City of Manchester finds a contractor breaking the law on its project, breaking the law on its project and that is really what we are talking about here with respect to employee misclassification, failure to comply with worker's compensation insurance requirements, that we as a property owner, the City as a property owner has the right to say I don't want this contract worker to work on my project. I am not going to allow this contractor to work on my project if it is going to break the law on my project, the City of Manchester, by cheating on taxes, by cheating on insurance, by cheating the City. I think that is an important distinction that really has to be borne in mind when thinking about what the real scope of this ordinance is and distinguishing it from other types of laws that purport to regulate civic life. Thank you.

Chairman Wihby stated Alderman O'Neil is going to move his meeting to the other room so we are going to hear everybody who is on this list. If everybody can keep it to two minutes we can do that. If it is going to go too long, we are

going to just shut it off but if everyone can just keep it to two minutes we can do this.

Rick Exline, 1832 Candia Road, Manchester stated:

I think the last person said it best when he said that we would be cheating ourselves. I think, you the Aldermen, would be cheating the voters who put you in office by passing this ordinance. You would be slapping the taxpayers in the face, the property taxpayers. You would be slapping these people in the face in the long-term because by certifying payroll and adding health insurance and doing all of the things that Alderman DeVries wants to enact are we also going to offer unemployment insurance when the Public Works projects are over with? Also when it is over with labor disputes will be deferred to the NH Labor Department. I think not only is the City affected by this by the property taxpayers and the voters of Manchester a slap in their face by passing this ordinance but I think in the long term we are going to drive up local unemployment when these certified payroll jobs are done because these people will be laid off and they will be collecting unemployment. I think that we are going to be adding to the New Hampshire ratepayers property tax problem because we are going to need to find more Labor Department investigators to investigate these problems with non-certified payroll and health benefits. We already have a deficit in the City budget. I think we should add to it. I think that would be very nice. I am totally against this. I am a resident in Manchester. I am a property owner. My family owns property in Manchester and I speak for them when I say we are against it.

Don Welch, 811 Dix Street, Manchester NH stated:

I come before this sub-Committee to voice my opinion on this particular proposal before you. I am in favor of this and I think...I know where Dave Wihby stands on this issue but what bothers me the most is where the other people on this particular Committee and the full Aldermanic Board stand on this. I remember reading literature from you people when you ran for office that you would support working families. Now there are contractors in this room that do supply and take care of their employees and I applaud them for that. Unfortunately, when I was a State Representative I worked for, at the time, Deputy Labor Commissioner Wihby, on a worker's compensation compliance statute in the State of NH and I was privy to go to a meeting that took place in Boston with the Insurance Fraud Bureau, along with the U.S. Attorney's Office in New Hampshire and also the Attorney General's Office in the State of New Hampshire. The fraud that exists in the construction contracting is pervasive in this State. So when this City doles out money for contracts, you can best believe that there is some type of activity going on with that money and if that money is to be construed as graft or whatever, the reality of it is that maybe it should come back to the City of Manchester and not in some contractor's pocket. This particular bill before you, you people sitting on this Board and this Committee, I believe, have an obligation to the people who

elected you and that is to set a precedent in the State. We couldn't do it on the State level. My father brought up seven kids on the West Side of Manchester. I have lived in Manchester my whole life. We had a home and you know what, we were all brought up decent people, not to cheat and to play by the rules and everything was going to be all right. Well today it is not like that and I say when we take our tax dollars, my property tax dollars and dole them out, I want accountability. I want accountability for those dollars and that rests with you people who we elect. Then it rests with these department heads that dole out these contracts but they have nothing to go by and this ordinance does exactly what I am talking about. It puts in a set of standards that make the level playing field out there exist for union and non-union contractors, but more so it helps every single family in this community, whether you are a union worker or a non-union worker. It sets the pace and if we do this in Manchester let me tell you we are going to set a fire in this State that is going to make New Hampshire a much better place to live in where you have wages that you can pay \$1000/month rent right here in Manchester, NH and healthcare that you can pay for. I know all about this because I have been through all of it. I have had 10 heart operations. I know the healthcare system. I feel bad for these families out there who are shelling out \$900/month or these contractors that are shelling out \$900/month but when I look at CMC and the Elliot Hospital writing off \$20 million or \$30 million worth of care that they have provided in this community, which in turn will make better healthcare for all of us if this was paid, that is where my tax dollars go. That is where I want them to go and you have an obligation. Right now the way I count it, it is 10-4 on this Aldermanic Board to pass a comprehensive piece of legislation here in this body to help working people in this City. Thank you.

Charles Hall, 17 Hill Street, Nashua, NH stated:

I am with J. L. Hall Company. I am a mechanical contractor who does some work for the City of Manchester. Approximately 20% of my workforce lives in Manchester and as has been mentioned a couple of times...let me start out by saying that I am against this proposal and yes we have a great group of friends here who are law abiding employers and employees. We pay our health insurance in some form. We pay our worker's compensation but a lot of the stipulations that come across with this ordinance would cause our internal costs to go up with the record keeping and things like that. If our internal costs go up, our bid prices go up. If our bid prices go up to our end users, the price to the end users go up. Either that or we just decide not to bid to Manchester. So, I would be against this for the mere fact that I think a lot of good companies and a lot of good employees would not be able to do business with Manchester.

Kevin Cash, Manchester, NH stated:

I am the President of the NH Building Trades and a lot of the people I represent will not be here tonight because they are the workers that are out there. A lot of

the people that you have heard tonight speak are the employers and it is ironic that the employers are speaking but the people that they really represent aren't here to do a lot of speaking for them because they do risk losing their jobs, believe it or not. You heard tonight about the insurance rates being up around 325% in the State. The reason that is so high is because we had so many uninsured and the more we condone this, the worse the situation is going to get. Basically I am just here to say that responsible contractor language just means that you are responsible and most of the things that we are talking about here tonight are already laws that are in effect. All we are saying is if they are in effect let's carry them out and be responsible as City elected officials and just go along with what is right. This is what is right and people that you represent are the working families of New Hampshire. It is like the old saying goes, "when the small boats come up, all the boats come up." We do not need more people uninsured in this City. It is a major problem that we have right now. You heard that there is 90%+ who are offering insurance out there from the ABC Contractors. I would like to know how many have offered that they have to all pay back most of them. Pay back from what they get out of their wages. A lot of people have to pay back for their insurance. They do cover some of their people but if they have families or children I guarantee that a lot of that pay has to go right back into that insurance, which they can't afford. So all we are saying is that responsible contractors, if they just cover the employee, the employee only, that would help benefit a lot of the workers who work in the City because a lot of your construction workers, believe it or not, that live in the City of Manchester, cannot afford to work in the City of Manchester and are working in Massachusetts and Maine and other places because they can't afford to work here. Thank you very much.

Gary Abbott, 48 Grandview Road Bow, NH stated:

I am the Executive Vice-President of the Associated General Contractors of NH. What I am passing out...I am not going to completely go through in the essence of time and the number of other speakers to follow me, but I want to point out something that is the very first thing that I have noticed since listening to all of the other speakers and that is the identified problem that this ordinance is trying to address. I think that one of the key ingredients here is contractors have enjoyed a free marketplace and one of the reasons this has not passed the State Legislature is because of the mandate in nature that it is when you look at healthcare and apprenticeship. What this ordinance does and I will use that word mandate, it mandates a certain level for a certain class of employers. We were told that if this is such a large problem for the Elliot Hospital and others, this kind of mandate should be for all businesses, not just contractors working with Manchester. It should be for everyone. It should be for all types of businesses. There is no way, I think, in understanding a free marketplace that that kind of ordinance would pass the State Legislature because it is competition, whether it is in the healthcare industry or whether it is in the construction industry, that makes the United States

the great place that it is. Healthcare, I have heard some discussion and an amendment and I would like to talk about the amendment. The word was used “comprehensive” and I am not so sure I understand what that means. I have to tell you, not only working for the Associated General Contractors but many years ago I worked for a company called Blue Cross/Blue Shield of NH and Vermont and I can tell you...does that mean if it is a self-funded program, if it is an HMO, what about large deductible, what happens with co-pays, what is a comprehensive plan, what type of plan are we talking about. Since you have removed the City of Manchester as being the one to match, I question what that plan would be. Also, there is a difference between large companies and small companies, what they can get and for what price. I am raising those issues because that is a mandate question that in my mind is very huge about healthcare and mandating it on a certain class of employers. Apprenticeship. In the 80’s the Associated General Contractors had a Federal Highway Grant to do an on-the-job training program. This was not a US-DOL apprenticeable program. It was a program geared towards those highway contractors for certain individual trades within them, such as and I will use for instance roller operator. We designed a program that was about 600 hours. US-DOL programs are in essence usually four years long. It would be not reasonable for that class of type of employee to go through a full four-year apprenticeable program. We design programs for other different classifications for highway with the approval of the Federal Highway Administration. The Association has major concerns under the apprenticeship section because it says “apprenticeable trades” and I am not sure exactly what that means and what that encompasses and whether it encompasses those kind of trades that do not require the full US-DOL requirements. The other sections, two sections three and four, both are really State law. As I heard earlier, you are asking to reinforce those at the local level. Well, in essence they are in place and if anybody finds a violation or worker’s compensation not being complied with, they can report that to the State of New Hampshire. Certified payrolls. I can tell you that the construction industry, in essence, does not like certified payrolls because that is also showing one competitor another competitor’s price. It also opens up the door for a lot of what I would call “within the industry problems”, not just with owners such as the City of Manchester or the State of New Hampshire. They do require it in some cases but at the same time we are not so sure that this has a viable purpose to put in. The residency requirement, New Hampshire is a small community. I recognize that Manchester is the largest city but at the same time New Hampshire is not a big community and contractors work from one side of the state to the other. In the commercial, industrial and the size of contracts that was proposed earlier, you have to do that in order to be competitive. We would also oppose, very strongly, the residency requirement because that would, in essence, start to set-up barriers from one community to another and it would only end up hurting one community to another because you want the most qualified person that is working on the projects for the best project.

That may mean that some skilled people from other parts of the State might be the best that you would have working in the City of Manchester. In conclusion I would like to say that we are very concerned about the exclusionary nature of this ordinance and I think that is why you are hearing so much testimony tonight and I appreciate this opportunity to speak before you.

Joe Bellefeuille, 609 Front Street, Manchester stated:

I am representing Denron Plumbing & HVAC. We are a mechanical contractor that does work throughout the State. We have been lucky to be involved with a lot of the major projects in the City of Manchester over the last five or ten years. I just want to reiterate what Mark Holden from ABC had mentioned in that we feel that this ordinance is going to be very restrictive in the long run as far as the type of regulations that it imposes which are going to make the bidding process for the projects going on in Manchester have a limited amount of bidders on them. As a result, it is going to increase your cost and the taxpayers of the City, obviously, are not going to be in favor of that. Additionally, in the long run I don't think it is going to help any of the Manchester residents as far as them getting a better overall salary because of the fact that in the long run you are going to, again, be restricting those people from the type of jobs that they can be getting. The contractors in the area are not going to be able to man these jobs the way that they can competitively man them now and as a result the local people will not be getting those jobs. I just want to say that again we are opposed to this ordinance the way it is written.

Chairman Wihby called for a brief recess.

Chairman Wihby called the meeting back to order.

Don Mendzela, Londonderry NH stated:

I own Gerard A. LaFlamme Inc., formally of Manchester and now in Londonderry just like the Manchester Airport. I am in opposition of this ordinance. I have done work for the City for well over 20 years and this ordinance will increase costs to the City of Manchester. Any cost that you think a contractor or a businessman is going to absorb isn't going to happen. The cost will be passed on no matter what. I have employees who have been with me for 20 years. Probably 70% of my employees have been with me over 10 years. I feel that I treat them well for them to be with me that long. If I didn't I am sure that they would move on. I have had good success with retaining employees because I do offer them benefits. That is about all I have to say about this matter. Thank you very much for your time.

Jeff Warren, Loudon NH stated:

I am opposed to this ordinance. I have worked for Denron, which is a Manchester-based firm, the largest mechanical firm in New Hampshire. We have

been in business for 27 years. We have done many of the projects here in town, including the Nynex building and the civic center. We have a very good reputation. It would be a shame to take and isolate a company like us from this type of work. Also one quick point I would like to make is as one of the gentleman brought up earlier tonight, Manchester was the number one city in the United States. Well it was number one before this ordinance was put in place and I don't know why you would want to change things. Thank you.

Henry Szumiesz, Concord NH stated:

I am an employee, not an employer but I also want to speak for my mom who is retiring next year and as all people know when you get to that age you become fixed income and when an ordinance is being looked at and there is no fiscal impact that has been proven to show how much it is going to affect the City in taxes, I think this ordinance here for people with fixed incomes, especially those that are going to be retiring, could be something that they can't absorb. Maybe the City has other places they can get money from to help pay for additional costs and construction but I am sure people who are retiring will not be able to afford this. So I am against it and I think you guys should really think about what you are doing here because this is really a small state that probably has a lot of dollars tied to it.

Donald Levasseur, 81 Poor Street, Manchester stated:

They had a young man earlier talk about being ashamed of being in Manchester and I am the exact opposite. I am very proud to be from Manchester. I was born and brought up in Manchester and I have lived here the biggest part of 69 years. I am very proud to be an American, first of all, but very proud to be from Manchester, NH. I have traveled kind of extensively. I went to Russia for instance where they had no ability to do a lot of things and I think we do a wonderful job in this country and I don't think we need a lot more rules and regulations and I see nothing but costs here. Costs to employers, employees, people who buy our services and our tax dollars. Mr. Smith is my Alderman and I am very proud to have him sitting there. By the same token I am a small businessman and I have been a small businessman all my life. I ran a grocery store with very low payroll and low profits. I ran a restaurant, which is just as tough as anything can be. I am in real estate. I have done a lot of things and I know just from listening here, all of these contractors do a wonderful job at giving benefits to their employees and I think this is all very unnecessary having all of this here. I think this here should go in the barrel where it belongs because I don't think it serves any purpose. Look at City Hall. It is wonderful. It was built by tax dollars and some of these contractors who did a wonderful job. I don't remember hearing anybody complaining about their health benefits not being paid and all those kinds of things. I will be truthful with you. I have been a businessman all my life and you know what, I have never been able to afford to buy insurance for

myself and you know often times I had employees and I made sure they had some kind of benefits and I didn't have any for myself. Imagine that? I had to retire to get benefits. I had to be 65. As a matter of fact, they didn't even want me to retire because I said I want to retire and they said no you can't be President of a Corporation. You can't own this and you can't own that. I said you know what, you need the retirement benefits more than I do. Why don't you keep it but just give me the health benefits because I have never had them my whole life. I have five children, eleven grandchildren and we all survived. I paid the bills. I managed. I didn't have to come down here and cry that somebody was not paying me enough money. The economy takes care of that on its own. It does. That is what is wonderful about our country. The economy and the freedoms we have. If we don't like where we are at, go somewhere else. You can get a wonderful job somewhere else. You don't have to be here and you don't have to be working for these contractors. You don't have to be an electrician or anything else in the contracting business. I am not so naïve that I think that everything is going to take care of itself on its own. It doesn't happen that way but this isn't necessary and really we don't need any of this. It is just another cost for us as taxpayers to burden...it is another burden to be had. I think this is unnecessary and a waste of our time and dollars and money and I think everybody here except for a few...the young man who was ashamed to be an American and in the city of Manchester, New Hampshire. I think it is the most wonderful city in the world and I have traveled extensively and I want to thank you very much.

Paul DeLorie, 9 Heather Lane, Bow NH stated:

I work for Hampshire Fire Protection. I am opposed to this ordinance. I work for a responsible employer and my employer provides benefits that retain labor, skilled quality labor and we need to be able to insure that we can continue to recruit and maintain skilled and quality labor and we won't be able to do that if it is restricted to just Manchester residents. This ordinance is too burdensome for a community to build quality projects if it is going to be a mandate to have these types of restrictions. I am more or less going to reiterate what the rest of the people have been saying. The City shouldn't be involved in regulating private business. It is an unnecessary cost and a tremendous burden.

Gary Greenspan, 88 West Haven Road, Manchester stated:

I had prepared remarks but a lot of what I was going to say has been said so I will try to get right to the point. For several years in the 1990's I worked as a self-employed computer programmer. During that time I had no employer supplied health benefits. To protect myself, I purchased a catastrophic insurance policy that only cost me about \$100 a month because it had a high deductible so I simply paid my healthcare costs out of pocket and I came out way ahead because I was making more money than I would have if I had worked on salary for a company that provided me benefits. Also, there is a network of doctors in New Hampshire who



will charge much lower fees if you don't go through insurance and you just pay directly. To me there is a big benefit there to the whole community to cut healthcare costs down by having less regulation and less insurance, not more of it. One other aspect to this is since you Aldermen do represent us taxpaying homeowners in the City of Manchester, if most of us were going to hire a contractor to cut trees down or do plumbing, carpentry or whatever, we are looking for the best quality of work at the best price. We are not necessarily going to interview these people and ask them how much is your salary, what are your benefits...we are going to assume that people can take care of themselves and they are going to cut their best deal and if they are getting treated poorly benefit wise or salary wise they are going to go somewhere else and that contractor is simply not going to get the work. In conclusion, I think that we should leave well enough alone and let it regulate itself. Thank you.

Will Dockkam, PO Box 1688, Laconia, NH stated:

I own Giguere Electric in Laconia and I am here to ask this question of you. If Manchester restricts their work to only Manchester residents doesn't that then invite Laconia or Concord or Nashua to say okay all of our projects are only for our residents? I think that sets up a very dangerous situation.

Richard Grandmaison, Lewiston, ME:

I didn't come here with a prepared statement, but I came here with a package of materials on apprenticeship. I happen to be the State Director for the US Department of Labor and my role is to promote and expand the use of apprenticeship in the State of New Hampshire. If, at your leisure, you can take a look at this, there is a CD and it will tell you a lot about apprenticeship. Let me start with this. The reason why I came up here is I wanted to address some misconceptions and misrepresentations of apprenticeship. A lot of the contractors do have apprenticeship programs, many of them do. Apprenticeship was established in 1937 by virtue of the Fitzgerald Act. The State of NH adopted those rules and regulations back in the 1940's. I don't know the exact date. I was too young to remember that. I will say this. I am a resident of Lewiston, Maine and Mr. Larry Thibodeau and I were almost neighbors. I have an apartment in Concord, NH. Let me say this. Apprenticeship exists and it is strong because it can do...apprenticeship programs in over 800 occupations. The list is on that CD. As we speak, more and more occupations are being recognized as apprenticeable and are being developed. They are not only in construction. We have some in healthcare. We do early childhood education. I can say this. I would love to have the burden of being asked and maybe and I doubt it to be overwhelmed by the requirements on having to develop apprenticeship programs. That would be a nice problem because to be honest with you, it takes about an hour of an employer's time to develop the standards. The Apprenticeship Council in this State meets once a month and if need be they will do a telephone poll to approve standards.

When it comes to registering an apprentice, they can simply fill out the form and fax it to my office and it is a done deal unless we have questions, naturally. I have some strong concerns about employers that in other forums complain that they can't find journeymen or journey workers. Apprenticeship is a strong, first-class training system that combines both on-the-job training and requires a minimum of 144 hours of related coursework at night or even during the weekend. Mr. Thibodeau's program is registered with us. It is an apprenticeship program. We have equipment operators as apprenticeable occupations. We can do that. We can do many occupations. I can say this. I will make one comment about the rest of the proposal. I think that if you require these minimal guidelines if you want to call it, that even the Massachusetts contractors will have to abide by them or the Vermont contractors or the contractors from Maine. They will be on the same level field as the contractors in this state and I would be willing...you have my business card. If you have any questions, I would be willing to answer them. You can call me and I will get back to you. You have my e-mail address on there also. Thank you.

Fred Matusziewski, 2366 Elm Street, Manchester stated:

I am a principal in the architectural firm of CMK Architects. We do work within the City but I am speaking to you tonight as the Treasurer of the NH Chapter of the American Institute of Architects. We have a membership of over 250 members and as included in testimony or written information provided to you earlier, we co-signed a letter with the Associated General Contractors and the Associated Builders and Contractors, in addition to which we had also submitted a letter penned by David Udelsman, our President of the Board. We are speaking in opposition of this. As noted earlier by your Solicitor, Tom Clark and Frank Thomas, monitoring will be required on the certified payroll records. The consultants are presently contractually obligated to review the status of contractor's insurance obligations, liability, workman's compensation, bonding requirements, etc. With a small City staff, be it with the City Clerk's Office or with Highway or whoever is administering your projects, I would expect that the consultants would then be called upon to review payroll records and to monitor these because self-monitoring will not work. Thank you for your time.

Al Sentner, Derry, NH stated:

Thank you first for giving me the opportunity to speak. I am a representative from the Carpenter's Union and we represent approximately 430 members in Manchester. I have heard a lot of rhetoric tonight. I have heard a lot of contractors come up here and say they supply health insurance and they even pay 75% of it for their employees. They train their workers with comprehensive programs that sometimes exceed what is available. They pay worker's compensation insurance and they don't misclassify their people. This is commendable. I applaud them. They are maintaining the standard, the

community standard. I ask, what is the problem? What is the issue? They are already complying with the guidelines set forth by this ordinance. I would think that they would want their competitors, who are going to be directly competing against them for jobs, to follow those same guidelines. Misclassification of workers. I have heard a couple of people come up here and say they don't believe this is an issue. Let me tell you it is the single biggest abuse in the construction industry today, the misclassification of workers as independent contractors. To say that is not a problem or an issue is akin to denying that there is a white elephant in your living room. You can ignore it but it is still sitting in your living room. It is still there. At some point, government has the responsibility and the duty to step in when abuses are uncovered. They have that responsibility and that duty to address that issue. This is a quality of life issue the way I see it. This is an issue for working people, people who built America, regardless of their affiliation. I urge you to pass this ordinance. This is good for working people in Manchester, NH. Thank you.

Kevin Lefebvre, 16 Depot Street, Weare, NH stated:

I was born and raised in Manchester for 34 years and wanted to live with more land so I moved out of town. I am a small employer. I probably wouldn't be directly affected initially by the passage of this in the City of Manchester because I am not big enough to do the work that would be covered by this, yet I do do work for a lot of the smaller towns and communities around the City and as someone mentioned earlier what happens here will probably impact the rest of the State. If this should impact the State, it will impact me. Now as far as...there have been questions brought up about misclassification. We are in a free market society. If my competitor is misclassifying, I sure as heck am going to let someone else know about it to get him straightened out. It affects me. We already have that. Now there are abuses and anyone who says there is no abuse is obviously a liar. There are people like myself and other people who will do what they can to stop it. You are talking about cutting into the...taking some of the profits out of the contractor's pocket. Well contractor's are going to make a profit. That is what they are in the business for. They don't do it out of the goodness of their heart to go and do something and not make money. So, if you want to increase the cost, fine. Just realize that you will increase your bottom line. One way or the other you will increase the bottom line. Like I said, free market controls everything. I mean if I have an employee that I want and that I want to keep, if it takes offering him a \$1,000 bonus every week just to keep him on the payroll and I can afford it, I will do it. If I really want him and I can't afford it, I will raise my rates to do it. So as far as the health benefits, I am a small company and I don't carry health insurance for myself. I can't afford it. My employees do have it. My whole thing is this is just another requirement by you people, meaning the city here, another layer of bureaucracy. We already have rules for misclassification and we have rules about apprenticeship. Every electrician has to be registered with the State.

There is no need to require them to be registered with the Department of Labor. The Department of Labor is a voluntary agreement. We already have a mandatory agreement that we have to do with the Electrician's Board. My argument is if you are doing this you are just adding another layer to the whole problem. The problem is we want to work out the people who aren't good to the State. This is not going to help get them out. It is just going to force people to do something else. Thank you.

Raymond Hebert, 93 A Street, Manchester stated:

I would like to take this opportunity to thank you folks for listening to us tonight. I am standing here tonight as the President of the Electrical Contractor's Business Association. This Association represents some 53 owners of businesses throughout the State, which represents approximately 35 licensed and apprenticed electricians in the State. I have some literature that I would like to pass out to you folks so you may follow along, which states:

"I am writing on behalf of the Electrical Contractor's Business Association, which represents 53 electrical contractors, mostly in the City of Manchester and surrounding towns.

We see the proposed Responsible Employer Ordinance to have many shortcomings. We'd like to focus on Item A.2. which states all contractors with four or more employees shall maintain and participate in a bona fide apprentice training program approved by the State or the U.S. Department of Labor (DOL) Bureau of Apprentice Training for each apprenticeable trade or occupation represented in their workforce.

The language "shall maintain and participate" makes it mandatory to join the State Department of Labor apprentice program. This is a voluntary program. Please see Item #1 of the attached copy of RSA 278:1, Purpose I, to encourage employers, associations of employers, and organizations of employees to voluntarily establish apprentice programs and the making of apprenticeship agreements.

As you can see, the Responsible Employer Ordinance makes it mandatory to volunteer!

This argument to make it mandatory to volunteer was shot down by the N.H. Joint Legislative Committee on Administrative Rules on February 25, 2000. The hearing dealt with the Electricians Board rule change proposal to delete from its rules the requirement for electrical apprentices to be forced to sign up with the Department of Labor apprentice program.

The lawyer for the Joint Legislative Committee on Administrative Rules, Mr. Nusbaum, spoke at the public hearing on February 25, 2000. See attached copy of the hearing minutes (Item #2).

All of the apprentices who work for member companies of ECBA members are registered with the State Electricians Board as required by law. It is not a requirement for an electrical apprentice to register anywhere else in order to train for electrical licensure.

We'd like to speak and answer any questions you may have at the hearing on April 9, 2002.

s/Raymond R. Hebert  
President, ECBA

Matt Connors, 9 Pine Crest Circle, Bedford NH stated:

I am the President of Gemini Electric and the Treasurer of the Electrical Contractor's Business Association. I am a little baffled here. Why don't we call this what this is? This is a project labor agreement. It says basically that if we meet these ordinances we can work in the City of Manchester. The President of the United States banned project labor agreements on Federal projects. Why are we changing it? Why is the City of Manchester a step above the rest of the country? The agreement is at a place where it doesn't belong and we are against it. Thank you for your time.

Will Infantine, 89 Winward Lane, Manchester stated:

I will mention one thing. There has been some discussion here about classifications. I am an insurance agent and I specialize in providing insurance to contractors, both union and non-union. When it comes to audit time and the insurance company comes in to review your payroll, they look at the classifications. They look at the payroll so to think that a lot of things aren't being classified or that things are being classified incorrectly, I don't buy it. There does need to be some teeth in the independent contractor legislation at the State House. Fortunately, three or four years ago the State had the opportunity to do so and they put too many holes into it. As an agent, I would like to see the loopholes closed but to say that these people are misclassified, you say that to the owners union or non-union any time the auditors come in at the end of the year. I don't buy it. Thank you and I am opposed to this ordinance.

Edward McElroy, 1 Valley West Way, Manchester stated:

I am an electrical contractor in the area and whatever I would say right now is pretty redundant to what has come before me so I am just going to state that I am opposed to the ordinance as is. Thank you.

Jim Pereira, 126 Fleming Street, Manchester stated:

As a concerned Manchester taxpayer, I have noted the comments from both sides and it is curious that on the proponent side of this ordinance, I believe Mr. Cashin earlier mentioned that laws are in effect that relate to several of the items proposed in this ordinance. We agree that laws are in effect and would fully expect that those laws should be complied with. As an employee of a general contractor/construction management firm, I can say that we, too, are a company who pays its employees health benefits, worker's compensation and our subs do too. Qualification of sub-contractors in jobs that we undertake include ascertaining adequate coverage for events that may occur on the job site. I am curious that virtually all of the proponents here are AFL-CIO advisors or members, some of which I am sure don't even know who their employers are because they work out of a hall and don't go to a job until a phone call comes. That is a curious distinction that I make to the side of the aisle, if you will, that is opposed to the ordinance as proposed. Furthermore, training and tuition reimbursement is a common practice in our company and I know that is the case in a lot of the other companies with whom we relate. Training being available through the Associated Builders and Contractors, certified programs there and the NH Technical College System. To suggest that apprenticeship is the only way to go diminishes the value and really disrespects the work that the state college programs put forth. In turning away local contractors by insisting on residency requirements, I think that stipulation as well as others that would be exclusionary are really going to cost the community of Manchester as others have before. I am aware that a simple thing that we all take for granted, such as Christmas lights placed on Elm Street, are done largely out of the generosity of the Electrical Contractors Business Association and I would suggest that probably some of those community involvement might fall by the wayside if people are summarily just excluded from opportunities to do work in their own community. I would similarly seek to...I would like to know if the attempt to impose residency requirements would also be extended to consultants, experts and other valuable services that the City of Manchester takes advantage of on a regular basis for its overall management practices because largely what we provide certainly in our business is a professional service, that of seeing that construction management and general contracting takes place to the benefit of a project in a community. Naturally, I am opposed to this proposed ordinance and thank you for your time.

Jeff Hall, 231 Belmont Street, Manchester stated:

I am in favor of this ordinance. Some people are saying it is not a problem but I would like to ask what is the problem.

James Bernier, Allenstown, NH stated:

I work in the City once in awhile whenever jobs become available. In talking about a residency requirement, I believe there is a percentage...they are making it sound as if all of the employees have to be residents of Manchester and that is not the fact at all. There is a percentage there and the percentage also protects our African-Americans, our Mexicans, all these other ethnic backgrounds and diverse backgrounds of people who live here and that is...I get a little confused about also the benefits. They are making it sound like you have to maintain a high level of benefits. It is just a minimum standard, a minimum standard of benefits. It is not like they have to produce 100% of the benefits. They can go with a co-pay if they want. You have one gentleman who said he didn't have insurance working for another company and had to provide his own insurance. I don't think it is right for any resident to have to supply that. I think that should be supplied. That is all I have to say.

Liz Skidmore, Boston, MA stated:

I work for the Carpenter's Union representing somewhere around 450 members who live in Manchester, a number of whom are here and have been here at other hearings. I have a few specific details. One, there is nothing in this ordinance that creates a residency requirement. A number of people have spoken against creating one. There is absolutely nothing in here that creates one. Specifically what it says, if I can find it quickly is "contractors will comply with any local resident hiring plan developed by the City of Manchester." There is currently no hiring plan. If the City chose to adopt one in the future, this would refer to that but it is not in any way creating a residency plan. That would be up to the Aldermen if they so chose to do and there is an interesting debate to be had but that argument has nothing to do with this document. Second, there has been a lot of conversation about the cost, the related cost with passing this. Let's look at the cost and sort of break it down. Is there a cost associated with having an apprenticeship program? Yes, probably a minimal cost. You have the Director of Apprenticeship for the Federal Government say it takes an hours worth of paperwork to become part of the Federally approved apprenticeship program. There is some ongoing paperwork you fill out saying that your apprentices are involved so there is a minimal thing there. On the other side, to the City of Manchester there is a significant savings because you are getting increased productivity, as you would imagine with any well-trained workforce. The statistics from ABC of which we have a NH representative, their National office did a study that showed that by providing training the productivity increased by 44% and 22% looking at two different trades and I can produce that article for you. Basically it is a common sense thing that if you have an increase in training you are going to have an increase in productivity, which then can mean savings for the City. In addition, generally apprentices are paid less than journeyman so you have a structured way of doing that that is not being abused. The City can save money also on health

insurance. If, in fact, 98% or whatever the number is of the contractors are providing health insurance, there is no cost to the City to mandate...the other 2% are not providing it so that is not a significant increase in cost for the City. What we do have now, as you all know very well, is a tremendous increase in health insurance cost for the City and every employer and person and by not contributing to unfunded, uninsured people, this City will save money in the end because as we mentioned the Catholic Medical Center and Elliot Hospital, between the two of them, have almost \$19 million worth of unfunded care so it doesn't make sense to have City taxpayer dollars going to create more jobs that are going to increase the number. Will it fix everything? Of course not but it means our City's tax dollars are going towards something that is constructive instead of something that is not. In terms of the implementation and the maintenance of this from the department heads and all of that, what we really and truly are asking for in this ordinance is that these records...the burden is on the contractors to provide them and that the City hold them in a retrievable fashion. Basically we are saying that you have a file cabinet and that the public has the option of coming in and looking at them when they so choose. There is a simple form that can be created that says do you have health insurance, yes/no; do you have worker's compensation, yes/no. All we are asking the City to check is that those papers are submitted so they don't...there is no requirement here to then research the deeper level about whether or not they are true. We are just asking the City to have those submitted so that community members who are concerned about can go and look at it so in a sense the public does the enforcement. I guess that is it. Thank you.

Jeff Beaudoin, Stark Lane, Manchester stated:

As I look here I don't see the NH flag. I am opposed to this ordinance. The State motto, I believe, is "Live Free or Die" and I think it is a very bad ordinance. Call it what you want, it is a union only agreement for the City of Manchester. If you don't think this ordinance will cost more money to the City of Manchester, look at the Big Dig.

Harold Hodgden, 810 Union Street, Manchester stated:

I am in favor of the ordinance.

Joe Eaton, Bedford, NH stated:

I am President of JGE Enterprises. I am definitely against the ordinance. I have worked in the City of Manchester for over 30 years and I just think that if the job is to make sure that the City gets the best job that they can get for the lowest price, why would we try to go in and dictate how the companies do it. I don't know if you are all aware of it or not, but to bid on a project in Manchester we have a 15-page pre-qualification statement that we have to fill out for every job. That 15-page document tells the history of the company, the job experience that we have, references of people we have worked for in the past, our bonding insurance



information, our balance sheet, what equipment we have...basically you have everything about the company to know that we are capable of doing what we are bidding on. We get the okay from the City and we bid on it. We do it for the cheapest price and we do the best job we can with the people we have. To think that people who are paid benefits are better workers than others I think is kind of ludicrous. We do pay benefits. We pay insurance and we prorate them based on the number of years that they worked for us. Each year they get paid a little bit more. If it becomes mandatory, maybe I would or wouldn't work in town depending on the amount of work but to think that it would drive up the cost, absolutely. Absolutely. To me you guys are looking for a good job for a fair price and how the inner workings of the company are...whether we give Christmas turkeys or not, I don't think it is a concern of the City.

Chairman Wihby stated I want to note from the record that we have communications from AIA NH, NH Construction & Design Professionals, Peter Vinale Constructs, Inc., RS Audley and Interstate Electrical. All of those will be part of the record.

Alderman Forest moved to take all additional materials and comments and amendments and have them reviewed by the department heads and City Solicitor for a recommendation to the full Board. Alderman Sysyn duly seconded the motion.

Chairman Wihby asked, Tom, do you understand that you are going to look at all of these amendments and come back to the full Board.

Deputy Solicitor Arnold answered I understand that we are being asked to look at this and make a report to the full Board. I think that we have looked at many of the issues already.

Chairman Wihby called for a vote on the motion. There being none opposed, the motion carried.

There being no further business, on motion of Alderman Smith, duly seconded by Alderman Sysyn, it was voted to adjourn.

A True Record. Attest.

Clerk of Committee